

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

KENYATTA MOSLEY,)
)
)
<i>Plaintiff,</i>)
)
v.) Case No.
)
CHAPS, INC.,) Removal from
) St. Louis County Court, Missouri
<i>Defendant.</i>) Case No. 18SL-AC28523

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW Defendant CHAPS Inc.,¹ by and through undersigned counsel, and hereby removes the above-referenced lawsuit filed by Plaintiff Kenyatta Mosley in the Circuit Court of St. Louis County, Missouri. For its Notice of Removal, Defendant states as follows:

1. Plaintiff filed a Petition for Damages against Defendant on October 1, 2018 in the Circuit Court of St. Louis County, Missouri alleging claims arising under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), Missouri’s Minimum Wage Law, MO. REV. STAT. § 90.505, *et seq.* and alleged violations of MO. REV. STAT. § 290.110.
2. Defendant was served with Plaintiff’s Petition on November 5, 2018.

I. THE COURT HAS FEDERAL QUESTION JURISDICTION OVER THIS LAWSUIT

3. Federal District Courts have original jurisdiction over claims or rights “arising under the Constitution, treaties, or laws of the United States.” 28 U.S.C. § 1331. “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of plaintiffs properly pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

¹Chaps, Inc. has never been Plaintiff’s employer, and accordingly, is not a proper party Defendant.

4. This Court has original jurisdiction over this action under 28 U.S.C. § 1331, as Plaintiff alleges violations of the Fair Labor Standards Act. *Brewer v. Jim's Concrete of Brevard Inc.*, 538 U.S. 691 (2003).

5. Moreover, in any civil action of which the Federal District Courts have original jurisdiction, “the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1337(a).

6. Plaintiff’s state law claim for violation of the Missouri Minimum Wage Law, Mo. REV. STAT. § 290.505, *et seq.* and alleged violations of Mo. REV. STAT. § 290.110 arise out of the same case or controversy as the federal claims, and therefore, this Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant to 28 U.S.C. § 1337(a).

7. Accordingly, this civil lawsuit, in its entirety, is removable under 28 U.S.C. § 1441(a).

II. ALL PROCEDURAL REQUIREMENTS FOR REMOVAL ARE MET

8. The United States District Court for the Eastern District of Missouri, Eastern Division, is the appropriate venue for removal of Plaintiff’s state court action pursuant to Local Rule 3 – 2.07, as the allegations giving rise to Plaintiff’s Petition occurred in St. Louis County, Missouri.

9. Defendant timely filed this Notice of Removal under 28 U.S.C. § 1446(b) in that it is filed within thirty (30) days of the date Defendant received a copy of the Summons and Petition.

10. Under 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon the Defendant in this action are attached as *Exhibit A*, which also constitute a complete copy of all documents currently in the state court file.

11. Pursuant to 28 U.S.C. § 1446(d), prompt written notice of this Notice of Removal is being sent to Plaintiff through her counsel of record and to the Clerk of the Circuit Court of St. Louis City, Missouri.

12. Defendant submits this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff, without conceding that Plaintiff has pleaded claims upon which relief can be granted without admitting that Plaintiff brought her cause of action against a proper party, and without admitting that Plaintiff is entitled to any monetary or equitable relief whatsoever.

WHEREFORE, Defendant CHAPS, Inc. respectfully removes the above-styled action pending in the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, Eastern Division.

Respectfully submitted,

FORDHARRISON LLP

/s/ Corey L. Franklin

Corey L. Franklin, #52066
Jamie M. Westbrook, #66055
7777 Bonhomme Avenue, Suite 1800
St. Louis, Missouri 63105
(314) 257-0301 – Phone
(314) 257-0325 – Fax
cfranklin@fordharrison.com
jwestbrook@fordharrison.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 4th day of December, 2018, the foregoing was sent via email upon the following counsel of record:

Richard A. Voytas, Jr., Esq.
Nathan E. Ross, Esq.
Ethan W. Gee, Esq.
Erika V. Dopuch, Esq.
Ross & Voytas, LLC
12444 Powerscourt Drive, Suite 370
St. Louis, MO 63131
rick@rossvoytas.com
nate@rossvoytas.com
ethan@rossvoytas.com
erika@rossvoytas.com

/s/ Corey L. Franklin _____

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